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2-14

Origin: ITP
Info: SS UE C EUR LE OCD CIA DCL OFD TRC FC

AMEMBASSY

ROME

2368

Control 2406

November 14, 1947
5 p.m.

REMBTEL 3527, Nov 5 Com Treaty

Article XXII. Although DEPT had supposed reservation authorized DEPTEL 2017 would adequately serve Italian interest, EMB authorized at discretion to bargain for complete elimination MFN coasting trade and inland navigation.

As EMB suggests, Art XXIII does not (repeat not) require either HCP permit transit military personnel in conflict with its neutrality obligations under international law. Understanding to this effect may be entered in minutes if desired. DEPT considers this to accord with principle that provisions of Treaty should not be construed in a manner to conflict with international law.

Setser arrived safely.

MARSHALL

CP:HWalker:met 11-12-47

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November 19, 1947

SUMMARY MINUTES

Fourteenth Meeting in Negotiations Between the United States and Italian Delegations for a Treaty of Friendship, Commerce and Navigation.

Approved:

Participants:

For the United States: Messrs. Ainsworth, Summers.

For Italy: Mr. Lombardo, President; Messrs. Sorrentino Cattani, De Rossi, De Ver., Di Cristina, Ferrero, Maresca, Melano, Sensi, Timarco.

Time: 5:00 p.m., Wednesday, November 19, 1947.

Place: Palazzo Chigi.

Article V

Paragraph 2. The Italian negotiators stated that their Government had agreed to accept the formula proposed in the original text of this paragraph with respect to the withdrawal of compensation in foreign exchange upon the terms applicable to the foreign currency at the time of taking of the property. With regard to withdrawal upon the "most favorable" terms which might be applicable to the foreign currency, they reiterated the objection of their Government to the use of such a broad wording, pointing out that under present conditions the "most favorable" rate from the point of view of the person desiring to withdraw lire from Italy would be the nominal official exchange rate, whereas almost all international financial transactions are effected at the higher export rate of exchange. They said that they would not insist upon any direct reference to the exchange rate "applicable to capital transfers", but that they would wish to make it clear that the applicable rate would be one which was generally prevailing in the majority of international transactions and not some special exchange rate of limited applicability. The American Delegation agreed to transmit these views to its Government for further instruction.

The Italian

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The Italian negotiators then stated that, as a matter of principle, their Government insists on a differentiation, in connection with the withdrawal of compensation, between investments which were originally made in foreign exchange as opposed to those originally made in lire. They stated that they were prepared to accept simple rules for making a differentiation, such as they had already proposed (Minutes of October 6, 1947), or any more simple rules which the American delegation might suggest, but that they must retain the basic principle of differentiation. The American delegation stated that its position remained substantially that which was recorded in the meeting of October 30. After reviewing that position, the American delegation suggested that any new proposals for laying down a simple and practicable rule of differentiation on this matter might better come from the Italian negotiators. The latter agreed to consider the entire question further for discussion at a later meeting.

Article VII

Paragraphs 1 and 2. With respect to the difficulty foreseen by the Italian delegation in translation into Italian of the phrase "real and other immovable property" used in this article, the American delegation stated that it was authorized to delete the words "real and other" wherever they appear in the article.

Paragraphs 1 and 4. With respect to the proposal reiterated on October 22 by the Italian delegation, for the inclusion in the Treaty of general most favored nation treatment regarding the acquisition, ownership and disposition of immovable property (in addition to that already accorded with regard to personal property), the American delegation stated that the Department of State had confirmed the understanding of the delegation, expressed at the meeting on October 22, that it has been the traditional treaty policy of the United States Government, followed almost without exception, to avoid any interference with the prerogatives of individual states (in the United States) to legislate concerning land ownership. The American delegation stated its belief that Article VII in its present form, when read in conjunction with Article I (paragraphs 2 and 3), gives adequate coverage for property rights, with rather extensive most favored nation rules being set forth in Article I. The most that the United States Government could do at this time, the American delegation said, was to follow the example of the rule already established concerning inheritances and to accord most favored nation treatment, therefore, with respect

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respect to the disposition of immovable property. This would not cover the acquisition, ownership, lease and possession of immovables, however, and would not appear to meet the Italian proposal for a general most favored nation rule in this connection. As a practical matter, the American delegation concluded, most favored nation treatment is, as previously stated, already generally assured to Italians in the United States.

The Italian negotiators stated that they regretted that it appeared impossible to insert a most favored nation clause on this subject, and that they would consider the matter closed.

Article XII

Referring to the American proposal on October 22 for the inclusion of an additional paragraph (2) to this article, concerning the mutual granting of certain social insurance benefits, the Italian negotiators stated that the proposed paragraph was acceptable. They said that they regretted that more extensive provisions were impossible at this time, and mentioned in particular the desirability of coverage for ordinary medical care. The American delegation pointed out that Federal social security legislation in the United States does not extend to medical care, which is not generally compulsory, and that the Government would not be in a position to regulate this matter by treaty at least until legislation in this field was further developed by the Federal Government.

Article XV

Paragraph 2. The new draft of this article submitted by the American delegation on October 30 was considered acceptable, the Italian negotiators stated. On the other hand, they said that they had learned that at Geneva meeting to consider the draft Charter of the International Trade Organization, the similar provision in the draft Charter concerning goods in transit had finally been eliminated. Accordingly, they stated that they would prefer to eliminate the rule likewise from this Treaty if the proposal were agreeable to the American Government. The American delegation stated that it would seek instructions on the question, but pointed out that, regardless of the multilateral decision at Geneva, the privileges for goods in transit appeared reasonable and beneficial from a commercial viewpoint and the United States Government would very probably prefer to keep the provisions in the Treaty. The Italian negotiators said that if this proved to be the case, they would accept the paragraph as it now stands.

Article XXIV

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Article XXIV

Paragraph 1 (b) The American delegation stated that rather than insert an explanation in the Protocol further defining the term "national treasures" in this paragraph, as suggested on October 22, it would propose a new formula in the body of the Treaty itself, along the following lines:

> "(b) Relating to the exportation of objects the value of which derives primarily from their character as national works of art or as national antiquities or from their relationship to national history, and which are not in general practice considered articles of commerce."

The Italian negotiators said that they considered this text satisfactory except that, on further consideration, they would prefer to eliminate the word "national" where it appears before the words "works of art" and "antiquities". If this were not done, they said, the text, particularly in Italian translation, would appear to limit the exception to locally-produced treasures and might thus exclude certain works of art (e.g., Rembrandt paintings) which have become a part of the national artistic patrimony. The American delegation stated that it would bring this proposed modification to the attention of its Government.

Paragraph 3. The Italian delegation, referring to its previous proposal to include in this paragraph an exception for advantages or preferences which it might wish to grant to territories possibly placed under its administration as a result of an international agreement, stated that it was willing to withdraw this proposal insofar as the Treaty was concerned, but in that case would address a letter, a copy of which was handed to the American negotiators, clarifying that the Italian Government intends expressly to reserve its right to accord such advantages, if permitted by future international agreements, without according them to other countries on the basis of a most favored nation clause. The American delegation, in accepting a copy of the proposed letter, stated that it would wish to inform its Government of the Italian decision and to elicit further comment or instructions.

Paragraph 3 (d). The American delegation stated that, inasmuch as all advantages which Italy might accord to the State of the Vatican City were now excepted from application of the most favored nation clause, there would appear to be no reason for including in the Minutes any further understanding with respect to the privileges granted to the Holy See under the Lateran Agreements of 1929, unless it could be shown

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[illegible] there were some specific provisions in the [illegible] Agreements not already adequately covered by the [illegible] for the State of the Vatican City. The Italian [illegible] stated that they would make a further careful study to determine what provisions, if any, were not already covered.

ADDITIONAL PROTOCOL

Preamble. In order to clarify that the Additional Protocol is an integral part of the Treaty, the American delegation stated that it has been authorized to redraft the preamble to the Additional Protocol in the following terms:

"In view of the grave economic difficulties facing Italy now and prospectively as a result of inter alia, the damage caused by the late military operations on Italian soil; the looting perpetrated by the German forces following the Italian declaration of war against Germany; the present inability of Italy to supply, unassisted, the minimum needs of its people or the minimum requirements of Italian economic recovery; and Italy's lack of monetary reserves; at the time of signing the Treaty of Friendship, Commerce and Navigation between the United States of America and the Italian Republic, the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered as integral parts of said Treaty:"

The Italian delegation stated that the foregoing proposed preamble was acceptable.

Article XVI, paragraph 1. The American delegation, referring to [illegible] by the Italian negotiators on September [illegible] provisions of Article XVI, paragraph 1, [illegible] authorized to insert the following new [illegible] numbered 3) in the Additional Protocol:

"[illegible] the current transitional period of [illegible] recent war, the provisions of Article [illegible] of the Treaty shall not prevent the [illegible] either High Contracting Party of needed [illegible] internal sale, distribution or use of [illegible] in short supply, other than or [illegible] controls applied with respect to like [illegible] of origin. However, no such controls [illegible] distribution of imported articles [illegible] by either High Contracting Party [illegible] to cause unnecessary injury to the

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competitive position within its territories of the commerce of the other High Contracting Party, or (b) continued longer than required by the supply situation.

The American delegation then stated that if the foregoing paragraph were found acceptable, the present third paragraph of the Additional Protocol should be renumbered "4" and should read as follows:

> 4. Neither High Contracting Party shall impose any new restriction under paragraph 1 of the present Protocol without having given the other High Contracting Party notice thereof which shall, if possible, be not less than 30 days in advance and shall not in any event be less than ten days in advance. Each High Contracting Party shall afford to the other High Contracting Party opportunity for consultation at any time concerning the need for and the application of restrictions to which such paragraph relates as well as concerning the application of Paragraph 3; and either High Contracting Party shall have the right to invite the International Monetary Fund to participate in such consultation, with reference to restrictions to which subparagraphs (a), (c) and (d) of paragraph 1 relate.

The Italian negotiators said that they would study these proposals and comment at a later meeting.

PROPOSED CONVENTION on Recognition of Academic Degrees, Etc.

The American delegation reported that its Government had now received and studied the specific draft for a Convention on this subject as submitted by the Italian delegation on October 9. For the several reasons set forth in earlier meetings, it was explained, the American Government could only reiterate that the Italian proposals for mutual recognition of academic certificates and degrees of professional competence go far beyond anything which the American Government is able to conclude at this time. These matters are regulated by individual institutions, by private associations or by the laws of individual states in the United States, and the intervention of the Federal Government in this field, even when of a most moderate character, incites opposition and effectively prevents the adoption of Treaty commitments. The Italian negotiators stated that they regretted that a Convention could not be entered into, but said that they were hopeful that their objectives could be attained as in the past by direct negotiations with individual universities and associations. The American negotiators pointed out that the appropriate offices of their Government would be glad to render such assistance as was possible.

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PROPOSED EXCHANGE OF NOTES on Cultural Interchange.

The Italian delegation stated that it would be pleased to enter into an Exchange of Notes regarding cultural interchange, along the lines suggested by the American delegation on October 17.

DRAFTING SUB-COMMITTEE FOR ITALIAN TEXT OF TREATY

The Italian delegation named Messrs. De Rossi, Ippolito and Melano, and the American delegation Messrs. Ainsworth and Summers, as a special Sub-Committee to proceed as soon as possible to an examination and comparison of the Italian and English texts of the Treaty, both to be equally authentic.

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Ref EMBTEL 3245, Oct 5, and DEPTEL 2176, Oct 24. Dept's view is that para one (a), (c) and (d) and concluding clause beginning QUOTE and either Party UNQUOTE of para three of original Add Prot would be appropriate subjects for consultation and possible conclusion new arrangements under provisions Art XXIV, para one, subparagraph (a) as amended. EMB authorized record this view in minutes.

Ref EMBTEL 3527, Nov 5. Art XI (one). EMB authorized record in minutes phrase suggested by Lombardo, including QUOTE engagements UNQUOTE.

LOVETT, Acting

CP:VGSetser:met
11-18-47

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Cleared with Sullivan by Le/T phone 11-18-47

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